



**TOWN OF HARPSWELL
PLANNING BOARD MINUTES
JULY 19, 2006**
Approved August 16, 2006

MEMBERS PRESENT

John Papacosma, Chairman
Dorothy Carrier, Vice Chairman
Joanne Rogers
Kenneth Cichon
Robin Brooks, Associate Member

MEMBERS ABSENT

STAFF PRESENT

Jay Chace, Planner
Marsha Hinton, Recording Secretary

The Town of Harpswell Planning Board meeting being duly advertised in the Times Record was called to order at 6:30 p.m. by Mr. Papacosma, Chairman.

Mr. Papacosma, Chair, named Mr. Brooks as a full voting member for purpose of this evening's meeting.

Minutes of June 21, 2006

Ms. Rogers moved without second to approve the minutes of June 21, 2006 as printed.

Mr. Brooks pointed out a typographical error.

Ms. Rogers moved, seconded by Mr. Papacosma to approve the minutes of June 21, 2006 amended as follows: "RUSSELL Emerson, Site Plan Review; Commercial Fishing Zone, Tax Map 11-115, 14 ~~Widden~~ **Whidden** Road, Harpswell." Four in favor (Mr. Papacosma, Ms. Rogers, Mr. Cichon, and Mr. Brooks) One abstained (Ms. Carrier)

Mr. Papacosma reviewed the site visit attended by Ms. Rogers, Mr. Brooks, Mr. Papacosma, and Town Planner, Mr. Chace. Mr. Cichon and Ms. Carrier stated that they had individually viewed the site at a later time.

OLD BUSINESS

No old business.

NEW BUSINESS

ITEM 1

06-07-01 Stan and Linda Weliever (Evelyn Lamon and Claudia Turcotte – Owners), Reconstruction of Non-Conforming Structures, Commercial Fishing Zone, Tax Map 21-45, Harpswell Islands Road, Bailey Island.

The Planning Board discussed the site, the septic systems, and the criteria for review as an amendment to an approved site plan.

Mr. Chace pointed out the criteria under § 16.4 of the Site Plan Review ordinance adding that the Codes Enforcement Office considers this to be a minor site plan review and if the Planning Board agrees it will be handled as such.

Ms. Rogers explained that she had difficulty with adding the area allowed for expansion from the removed cottage to the remaining two cottages as well as not knowing whether or not the most distant cottage could be

moved further away from the shore and still allow parking in that area. Ms. Rogers stated that she did not feel it is a minor site plan amendment and would prefer the Planning Board go through a full review.

Ms. Carrier stated that she understood that the usage would not change, but shared the concerns expressed by Ms. Rogers.

Mr. Papacosma stated that those concerns would be explored during the review process for reconstruction of non-conforming structures.

Mr. Weliever presented the proposal to tear down three structures and rebuild two of those structures. Mr. Weliever pointed out that the expansion occurs away from the water and away from the road. Mr. Weliever discussed the existing ledge ridge line, drainage, the intent to reduce the non-conformance, improve the site, installation of a new septic, relocation of the office away from the road, and the existing log home. Mr. Weliever expressed concern that relocation of cottages would be unattractive and create drainage issues.

The Planning Board discussed the applicable review standards for Site Plan Review and Reconstruction of a Non-Conforming Structure, intensity of use, 40 day time period for exercising jurisdiction, the grandfathered use of the site, setback non-conformity, creating new non-conformities, volume issues, making expansion allowances for the removal of the third cottage, encroachment on the cottage by relocation of the office, State guidelines, merger of buildings, and the need for an accurate survey.

Ms. Weliever stated that they had not known that they would be making a formal presentation this evening and asked if the Board does not approve the application if they can take the existing cottages as they stand today and expand them by 30 % without Planning Board approval, what their rights as property owners are, and Code requirements for refurbishment of the structures. Ms. Weliever also expressed willingness to relocate the cottages to maintain conformity as far as possible. Ms. Weliever added that the proposal envisioned a family type compound and not rental cottages, however, Ms. Weliever stated she wished to maintain the ability to rent the cottages.

Mr. George Johnson Jr., abutter, asked if a future owner would also be able to expand by 30% and asked for clarification on plans for the log cabin structure.

Mr. Chace explained the ordinance with regard to expansion of non-conforming structures, recommend that the applicants contact the Codes Office with regard to refurbishment of the structures, and that the 30% expansion applies to structures as they stood on January 1, 1989, and not to ownership.

Sam Alexander, Selectman, stated that by his reading the ordinance doesn't talk about a second story addition or dormer.

The Planning Board reviewed Basic Land Use Ordinance § 10.3.2 standards with regard to an increase in non-conformity, vegetation, constraints on development, slopes, other structures on or adjacent to the property, location of septic system, foundations, precision in determining setback, erosion control, the lack of precedent for accrual or credit for removal of other non-conforming structures on the property, 30 % increase in square footage, 30 % increase in volume, relocation of proposed structures to comply with conformity, driveway location, and construction materials.

Ms. Carrier drew the Planning Board's attention to page two of the April 19, 2006 meeting minutes with regard to a similar application.

Mr. Chace, Town Planner, pointed out the potential inaccuracy of the scale use to determine setback. Mr. Chace added that the rental use is a grandfathered use and if the use becomes a family use only the ability to rent the cottage would no longer be a viable option. Mr. Chace reminded the applicant that it is incumbent upon the applicant to provide accurate information to the Planning Board.

Mr. Papacosma stated that the Planning Board needs to be satisfied that the properties are in the most conforming area and that accurate measurements are required for the Codes Enforcement Office to enforce the Planning Board approval.

Ms. Rogers stated that a more accurate survey was necessary, adding that cottage one was to be no less conforming than it currently is, cottage two can be relocated to a more conforming location and cottage two's volume issues need to be addressed.

Mr. Cichon stated that the Planning Board would not be able to craft a motion because they did not know what they were approving at this time. Mr. Cichon explained that in order to make a decision the Planning Board would need to have an accurate survey showing setback, how the proposed structures relate to those setback lines and how the proposed structures are less non-conforming than the current structures.

Ms. Rogers moved, seconded by Mr. Cichon to table the application for Stan and Linda Weliever's application for reconstruction of non-conforming structures until the regular Planning Board meeting on August 16, 2006, to provide time to obtain a more accurate survey. Unanimous Approval

Mr. Chace stated that the question of the minor site plan amendment was also before the Planning Board.

The Planning Board discussed the issues involved in site plan review and the time limit of 40 days in which to decide whether to take jurisdiction. The Planning Board agreed to have the application continue at this time as a minor site plan amendment.

06-07-02 Sam W. Alexander, Discussion only Subdivision Review, Interior, Tax Map 3-63, Route 123, Harpswell.

Mr. Alexander described his plans to subdivide his property and asked for Planning Board input with regard to a waiver of the two foot contour ordinance criteria.

The Planning Board discussed slopes, roads, clustering, septic, contours, and setbacks. The Planning Board requested a site visit prior to making a decision on the request for a waiver of the two foot contour requirement.

OTHER BUSINESS

Mr. Chace discussed a conversation with a potential applicant down on Dipper's Cove with regard to a simple lot merger. Mr. Chace explained that the applicant may not be able to attend the meeting in August and had asked if the Planning Board would agree to allow Mr. Chace to present that application. The Planning Board discussed the provisions in the Planning Board's by-laws which would allow such an arrangement and agreed to permit it as long as Mr. Chace did not advocate for the applicant, but simply presented the materials.

Mr. Chace distributed flyers from the Maine Municipal Association with regard to workshops for Planning Boards and Boards of Appeal and encouraged those who have not attended do so. Mr. Chace also distributed Beginning with Habitat materials to the Planning Board.

Mr. Chace presented a draft proposal entitled Consider Revision to Shoreland Zoning Ordinance by Mr. Cichon. Mr. Cichon explained the need to clarify language in the Shoreland Zoning Ordinance § 10.3 Non-Conforming Structures. Ms. Carrier recommended setting a definite date to begin working on ordinance changes well in advance of the next Town Meeting.

There being no other business before the Planning Board, Mr. Papacosma moved, seconded by Ms. Carrier to adjourn.

Meeting adjourned at 9:22 p.m.

Respectfully Submitted,

Marsha M. Hinton
Planning Assistant